

Appl. No. 09/966,863
Reply to official action dated December 13, 2005

REMARKS/ARGUMENTS

Claims 1–14 are pending and stand rejected in the above-captioned application. With the present paper, claims 1, 2, 6, and 9 have been amended, and claims 7, 8, and 14 have been canceled. No new matter was added with the amendment.

I. Continued Examination Under 37 C.F.R. § 1.114

Applicants thank the Examiner for withdrawing the finality of the previous Office action and entering Applicants' submission filed on November 14, 2005.

II. Claim rejections under 35 U.S.C. § 102(e) as being anticipated by Skinner et al. (US 6,605,472)

Claims 1, 2, 5–9, and 14 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Skinner et al. (US 6,605,472). This rejection is respectfully traversed. “[F]or anticipation under 35 U.S.C. § 102, a single reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.” MPEP § 706.02. “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, USPQ2d 1913, 1920 (Fed. Cir. 1989).

At a minimum, Skinner et al. do not teach fabricating an alignment structure in the top or bottom surface of a first substrate layer with a tool, nor do they teach forming an aperture in the top surface of the second substrate layer, the aperture in the second substrate layer being larger than the aperture in the first substrate layer. These limitations of the invention have been added to claim 1 to more particularly point out and distinctly claim Applicants' invention. Support for the limitations can be found on page 8, lines 4–28, as well as being illustrated in Figures 3A, 3B, and 5. Thus, no new matter has been added by the amendment of the claim.

At most, Skinner et al. teach forming an aperture in the side surfaces of first and second substrates that are mated together. See, for example, column 5, lines 6–8, column 8, lines 62–24, and Figure 2. As the aperture is formed simultaneously in the first and second substrates with a drill, the aperture in the second substrate cannot be larger than the aperture in the first substrate. See, for example, column 9, lines 12–14 and 46–57, which discusses centering the drill so that the apertures in both substrates will be identical.

Appl. No. 09/966,863
Reply to official action dated December 13, 2005

Thus, Skinner et al. do not teach every aspect of the claimed invention either explicitly or impliedly, nor do they show the identical invention claimed by Applicants in as complete detail as is contained in amended independent claim 1. Withdrawal of the rejection of claim 1 under § 102(e) as being anticipated by Skinner et al. (US 6,605,472) is, therefore, respectfully requested.

Claims 2, 5, 6, and 9 depend directly from amended claim 1. Therefore, Applicants respectfully submit that these dependent claims are allowable for at least the same reasons as set forth herein with respect to amended claim 1. Withdrawal of the rejection of dependent claims 2, 5, 6, and 9 under § 102(e) as being anticipated by Skinner et al. (US 6,605,472) is also respectfully requested. Claims 7, 8, and 14 have been canceled.

III. Rejections Under 35 U.S.C. § 103(a) as being unpatentable over Harrison et al. (US 6,224,830) in view of Official notice

Claims 1, 2, 5–9, and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Harrison et al. (US 6,224,830) in view of Official notice. The rejection of these claims is respectfully traversed. To warrant rejection under 35 U.S.C. § 103(a), all the claim limitations must be taught or suggested by the prior art. See MPEP § 2142.

At a minimum, Harrison et al. neither teach nor suggest forming an aperture in the top surface of the second substrate layer, the aperture in the second substrate layer being larger than the aperture in the first substrate layer, or mating the second substrate layer with the first substrate layer such that the aperture through the first substrate layer is completely within the boundaries of the aperture in the second substrate layer when the first and second substrate layers are mated together. These limitations of the invention have been added to claim 1 to more particularly point out and distinctly claim Applicants' invention. Support for the limitations can be found in previously presented claims 7 and 8, which have been canceled with this paper, and on page 8, lines 4–28, as well as being illustrated in Figures 3A, 3B, and 5. Thus, no new matter has been added by the amendment of the claim.

Harrison et al. do not teach a method of fabricating a device in which the aperture in a second substrate layer is larger than an aperture through a first substrate layer. Figures 6A and 6B clearly show that the opposite is true of the Harrison et al. device. Figure 6A shows an opening 64 through a top plate segment 10A that is large enough to admit a capillary having an exterior diameter that falls outside of the boundaries of the channel C formed in the bottom plate

Appl. No. 09/966,863
Reply to official action dated December 13, 2005

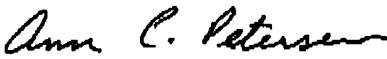
segment 10B. Figure 6B shows an aperture 65 formed through plate segment 61B that falls clearly outside the boundaries of aperture 67 formed in the combination of plate segment 61A and top plate 60A. Aperture 67 cannot be considered to be formed in a top surface of plate segment 61A, as aperture 67 passes entirely through plate segment 61A.

Thus, Harrison et al. neither teach nor suggest all of the limitations of Applicants' amended claim 1. Therefore, claim 1 is nonobvious. Withdrawal of the rejection of claim 1 under U.S.C. § 103(a) as being unpatentable over Harrison et al. (US 6,224,830) is, therefore, respectfully requested. Claims 2, 5, 6, and 9 depend directly from amended claim 1. Any claim depending from a nonobvious claim is also nonobvious. See MPEP § 2143.03 and *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, dependent claims 2, 5, 6, and 9 are nonobvious. Withdrawal of the rejection of these claims is also respectfully requested.

Conclusion

For the foregoing reasons, Applicants believe all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned attorney.

Respectfully submitted,



Ann C. Petersen
Reg. No. 55,536

CALIPER LIFE SCIENCES, INC.
605 Fairchild Drive
Mountain View, CA 94043
Direct: 650-623-0667
Fax: 650-623-0504
ann.petersen@caliperLS.com

CERTIFICATE OF TRANSMISSION OR MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 15, 2006, by Ann C. Petersen.

Signed: 